

10-31-02 1653
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Dated: October 30, 2002

Signature:

(Staci Harris)

Docket No.: HO-P01925US2
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Martin M. Matzuk, et al.

Application No.: 09/844,864

Group Art Unit: N/A

Filed: April 27, 2001

Examiner: Not Yet Assigned

For: OVARY-SPECIFIC GENES AND PROTEINS

TRANSMITTAL LETTER

Commissioner for Patents
Washington, DC 20231

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TECH CENTER 1600/2900

Dear Sir:

Enclosed are the following items for filing in connection with the above-referenced Patent Application:

1. Response to Restriction Requirement (w/traverse)
2. Return Post Card

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 06-2375, under Order No. 09807797 from which the undersigned is authorized to draw.

Dated: October 30, 2002

Respectfully submitted,

By

Melissa W. Acosta

Registration No.: 45,872

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In re Patent Application of:
Martin M. Matzuk, et al.

Application No.: 09/844,864

Group Art Unit: 1653

Filed: April 27, 2001

Examiner: Robinson, Hope A

For: OVARY-SPECIFIC GENES AND PROTEINS

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
Washington, DC 20231

Dear Sir:

In response to the restriction requirement set forth in the Office Action mailed September 30, 2002 (Paper No. 5), applicants hereby provisionally elect Group II (claim 2) for continued examination, with traverse.

The Commissioner may require restriction if two or more independent and distinct inventions are claimed in a single application (37 CFR 1.142(a)). In the present case, although the claimed subject matter may be classified in different classes, the inventions are not independent.

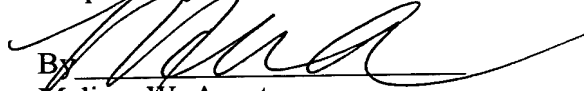
The Examiner has required restriction between Group II, which is drawn to a polynucleotide (SEQ ID No. 1) encoding the protein O1-236 (Npm2) nucleoplasmin, and Group I, which is drawn to a protein O1-236 (Npm2) nucleoplasmin. Since DNA encodes protein, applicants contend that Group I and Group II are related as such and that this relationship does not provide an undue burden for the Examiner to perform a simultaneous search of the polynucleotide and the protein. In light of this argument, applicants contend that the Examiner has not meet the burden to establish patentably distinct inventions under MPEP § 806 and § 808 and respectfully request that the restriction requirement between Group I and Group II be withdrawn, and that each of claims 1 and 2 presently pending in this application be examined.

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